

HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 940

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
PERMITTING THE ALLOCATION OF RELOCATION COSTS TO  
TELECOMMUNICATIONS COMPANY CUSTOMERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. DEFINITIONS--ALLOCATION OF RELOCATION COSTS TO  
CUSTOMERS--COMMISSION AUDIT.--

A. As used in this section:

(1) "actual costs" includes all capital and  
non-capital costs incurred to relocate infrastructure or  
facilities as well as all costs incurred to remove any  
infrastructure or facilities; "actual costs" does not include  
the cost of upgrading the facility being relocated;

(2) "commission" means the public regulation  
commission;

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underscored material = new  
[bracketed material] = delete

1 (3) "infrastructure or facilities" includes  
2 infrastructure or facilities used to provide interstate and  
3 intrastate services, including regulated, unregulated and  
4 deregulated services;

5 (4) "political subdivision" means a county;  
6 municipality, including a home rule municipality; service  
7 authority; school district; local improvement district; law  
8 enforcement authority; water district; sanitation district;  
9 fire protection district; metropolitan district; irrigation  
10 district; drainage district or other special district; or any  
11 other kind of municipal, quasi-municipal or public organization  
12 organized pursuant to law; and

13 (5) "state" means the state government or a  
14 state agency, department or institution, or a state-level  
15 authority.

16 B. Notwithstanding any other provision of law,  
17 telecommunications companies shall be entitled to recover from  
18 their retail customers, without a request for a change in  
19 rates, the actual costs incurred for the alteration, change,  
20 moving or relocation of infrastructure or facilities requested  
21 by the state or a political subdivision. Thirty days prior to  
22 assessing retail customers a fee to recover actual costs  
23 incurred for the alteration, change, moving or relocation of  
24 infrastructure or facilities requested by the state or a  
25 political subdivision, a telecommunications company shall

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1 notify the commission in writing of the imposition of the fee  
2 that the company intends to impose on the company's retail  
3 customers and shall show the fee as a separate line item on the  
4 customers' bills.

5 C. Upon petition by an interested party or on its  
6 own motion, the commission may conduct an investigation to  
7 verify that a fee imposed by a telecommunications company  
8 recovers the actual costs incurred. In such an investigation,  
9 the commission shall verify the actual costs that may be  
10 recovered from the telecommunications company's retail  
11 customers. In the event the commission, based on evidence  
12 presented at a duly noticed hearing, finds that a  
13 telecommunications company is not recovering its actual costs  
14 incurred, the commission shall order modifications or  
15 adjustments to a fee imposed pursuant to this section so that  
16 the telecommunications company may recover its actual costs.

17 Section 2. APPLICABILITY.--The provisions of this act  
18 shall apply to costs incurred after July 1, 2009 to relocate  
19 infrastructure or facilities as well as all costs incurred  
20 after July 1, 2009 to remove any infrastructure or facilities.

21 Section 3. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2009.